



# Cash Proffers

## Revenues and Expenditures

December 9, 2015

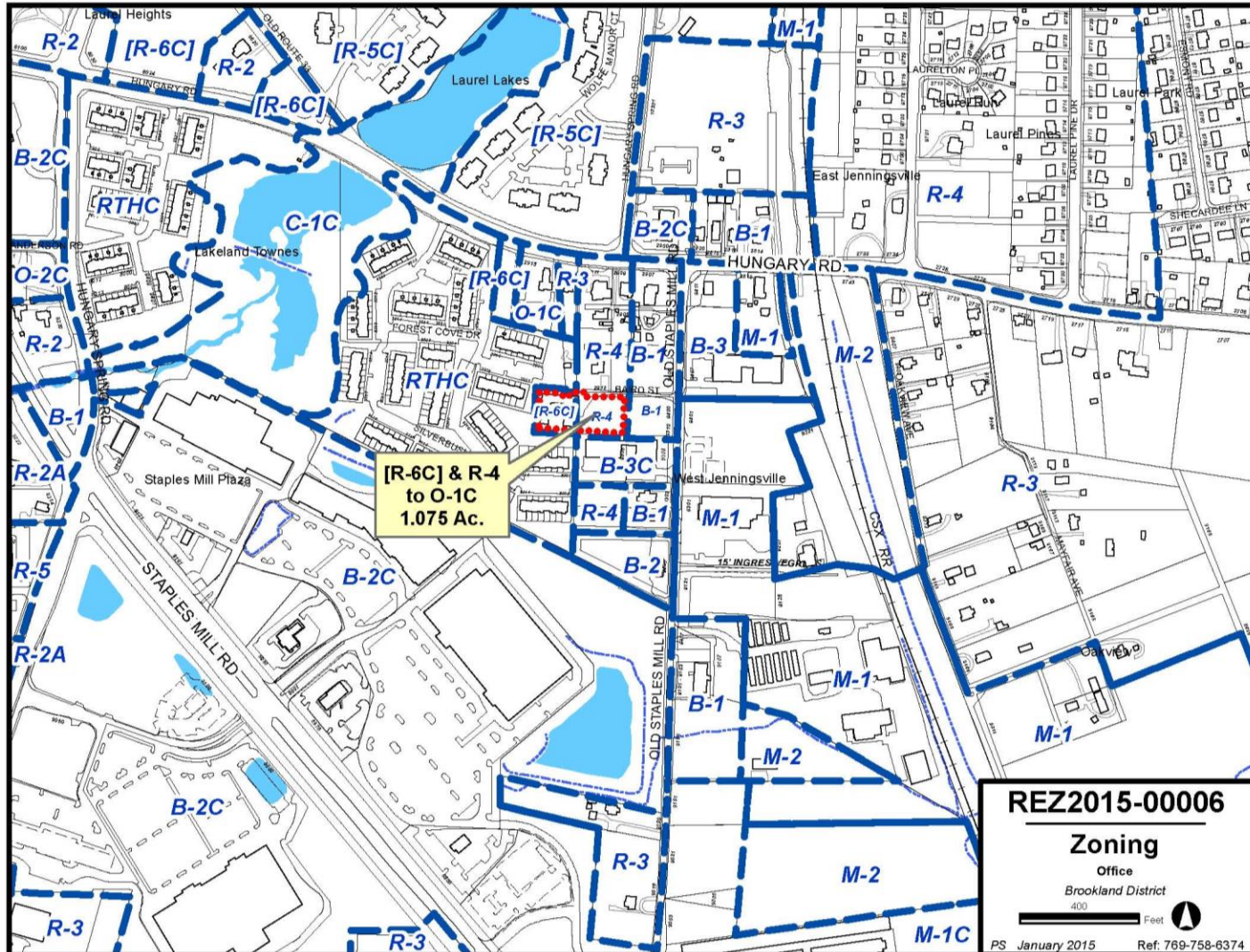


# Proffers

- A *proffer* is a voluntary offer by a landowner during the rezoning process.
- *Proffers* impose additional requirements to those required by the underlying zoning, usually to mitigate an impact related to the proposed zoning.
- *Proffers* result in *conditional zoning*, i.e. land that is zoned, with conditions attached.
- Governing bodies authorized to accept proffers in §15.2-2296



# Proffers: An Example







# Proffers: An Example

COMMONWEALTH OF VIRGINIA  
COUNTY OF HENRICO

John A. Vithoulkas  
County Manager

April 21, 2015

Laurel Lakes Associates, LLC  
3951-A Stillman Parkway  
Glen Allen, VA 23060

Re: Rezoning Case REZ2015-00006

Dear Sirs:

The Board of Supervisors at its meeting on April 14, 2015, granted your request to conditionally rezone from [R-6C] General Residence District (Conditional) and R-4 One-Family Residence District, to O-1C Office District (Conditional) part of Parcel 769-758-6374 containing 1.075 acres located on the west line of Old Staples Mill Road approximately 450' south of its intersection with Hungary Road, described as follows:

BEGINNING at a point on the west side of Old Staples Mill Road approximately 134.50' from the southern line of Linden Street; thence leaving the west side of Old Staples Mill Road N 88°03'02" W 141.45' to the True Point of Beginning; thence N 88°03'02" W 158.55' to a rod set; thence N 01°56'58" E 15.00' to a rod set; thence N 88°03'02" W 40.00' to a rod set; thence S 78°16'41" W 22.36' to a rod found; thence N 84°39'45" W 100.25' to a nail found; thence S 01°56'58" W 155.14' to a rod found; thence S 88°03'02" E 320.35' to a point; thence N 01°56'58" E 139.50' to the True Point of Beginning, containing 1.075 acres +/-.

The Board of Supervisors accepted the following proffered conditions, dated March 10, 2015, which further regulate the above described property in addition to all applicable provisions of Chapter 24, Code of Henrico (Zoning Ordinance):

- Prohibited Uses.** The following uses shall not be permitted on the Property:
  - child care centers;
  - outside business activity behind the existing building; and
  - banks, savings and loans or similar financial institutions.
- Refuse Containers/Trash Receptacles/Recycling Activities.** Dumpsters, trash receptacles, not including convenience cans, and recycling receptacles shall be screened from public view at ground level at the Property lines with masonry enclosures as approved at the time of Plan of Development. The gates and doors on the masonry refuse screens shall be of a substantial and durable material as

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Laurel Lakes Associates, LLC  
April 21, 2015  
Page 2

determined at the time of Plan of Development. Support posts, gate frames, hinges and latches shall be of a sufficient size and strength to allow the gates to function without sagging or becoming a visual eyesore as determined at the time of Plan of Development. Convenience cans shall be within or part of a decorative container.

- Mechanical Equipment.** Mechanical equipment shall be screened from public view at ground level at the Property lines in a manner approved at the time of Plan of Development.
- Detached Signage.** Any detached signs shall be ground mounted monument-style signs and shall not exceed eight (8) feet in height.
- Parking Lot Lighting.** Any new parking lot lighting fixtures shall not exceed twenty (20) feet in height as measured from the grade at the base of the lighting standard, unless otherwise requested, described and specifically approved, or if required, at the time of Plan of Development. Lighting shall be directed to minimize glare on public roads and adjacent properties and shall be reduced to a security level after the close of business.
- Severance.** The unenforceability, elimination, revision or amendment of any proffer set forth herein, in whole or in part, shall not affect the validity or enforceability of the other proffers or the unaffected part of any such proffer.

The Planning Department has been advised of the action of the Board of Supervisors and will revise its records.

Sincerely,  
  
John A. Vithoulkas  
County Manager

pc: Mr. James W. Theobald, Esquire  
Director, Real Estate Assessment



# Proffers

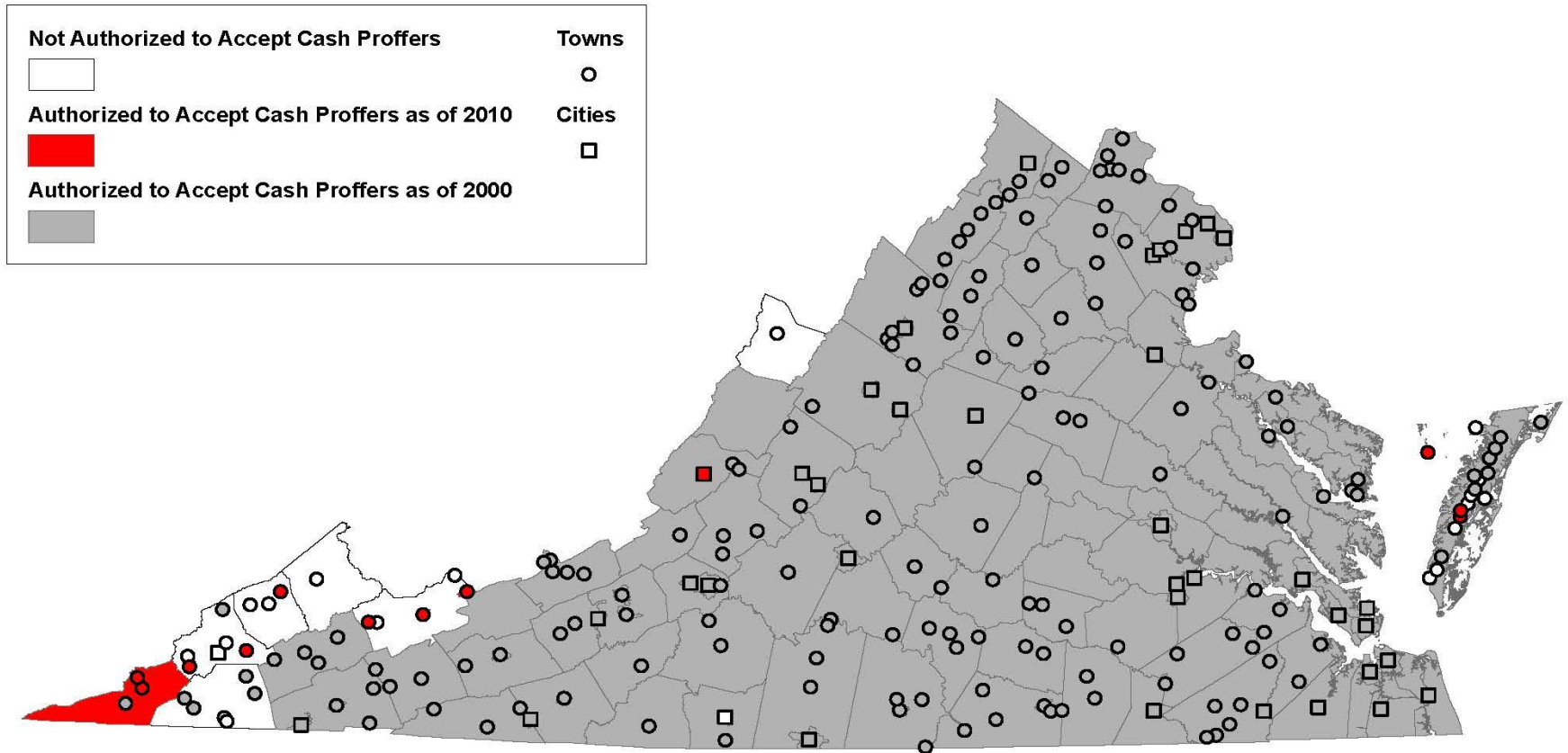
- *Cash Proffers* are cash payments voluntarily proffered in writing to offset the impact on capital facilities generated by rezoning property to permit additional density.



# Who is eligible?

- §15.2-2298
  - Any locality with a decennial census growth rate  $\geq 5\%$ 
    - Cities, counties, and towns with certain adjacent/contiguous proximity to localities with a 5% growth rate
- §15.2-2303
  - County with urban county executive form of government
    - Cities, counties, and towns with certain adjacent/contiguous proximity to counties with urban county executive form
  - Any county east of the Chesapeake Bay
- §15.2-2303.1
  - New Kent County

# Localities Authorized to Accept Cash Proffers in Virginia



Source: Virginia Department of Housing & Community Development, Commission on Local Government



12/7/2015



# Who is *ineligible*?

- Cities (2)
  - Martinsville
  - Norton
- Counties (6)
  - Buchanan
  - Dickenson
  - Highland
  - Scott
  - Tazewell
  - Wise
- Towns (18)
  - Appalachia
  - Cape Charles
  - Cedar Bluff
  - Cheriton
  - Clinchco
  - Clintwood
  - Gate City
  - Grundy
  - Keller
  - Monterey
  - Nassawadox
  - Onley
  - Painter
  - Pochahontas
  - Saxis
  - Wachapreague
  - Weber City
  - Wise





- §15.2-2303.2 governs the use of cash proffers once collected.
- For proffers pledged after 7/1/05, within 12 years of full payment of all cash proffers associated with an approved rezoning application:
  - The locality must begin construction, site work, engineering, right-of-way acquisition, surveying, or utility relocation on the improvements for which the cash was proffered.



- Otherwise if 12 years lapse with no progress toward completing capital improvements, the locality shall forward the amount of the proffered cash payments to the Commonwealth Transportation Board for allocation to that locality's secondary or urban system construction program.



- Unless prohibited by the proffers, a locality may use proffered cash for capital improvements for alternative improvements of the same category within the vicinity of the improvements for which the cash was originally proffered.
  - Proffesor must be notified, public hearing must be held, and governing body must make certain findings.



- Unless prohibited by the proffers, a locality may use proffered road/transportation funds proffered as matching funds for the VDOT Revenue Sharing Program in §33.2-357.
  - The proposed revenue sharing project must be in the locality's capital improvements program.
  - There appears to be no requirement on how the project relates to the property from which the proffered funds originated.



- Beginning in FY 2007:
  - CIPs must include all proffered payments received during the most recent fiscal year.
  - Capital Budgets must include the amount of proffered cash payments projected to be used in the ensuing year.





# Reporting Requirement

- Localities with population in excess of 3,500 must report proffer collections and expenditures (by category) to the Commission on Local Government.
- Data has been collected for years FY 2000 to present.



# Reporting Requirement

- Aggregate dollar amount of cash proffers collected
- Estimated aggregate dollar amount of cash proffered payments pledged and conditioned only on time
- Total dollar amount of cash proffers expended and aggregate amount by category:
  - Schools
  - Road & other Transportation Improvements
  - Fire & Rescue/Public Safety
  - Libraries
  - Parks, Recreation, and Open Space
  - Water & Sewer Service Extension
  - Community Centers
  - Stormwater Management
  - Special Needs Housing
  - Affordable Housing
  - Miscellaneous



# Cash Proffer Survey 2015

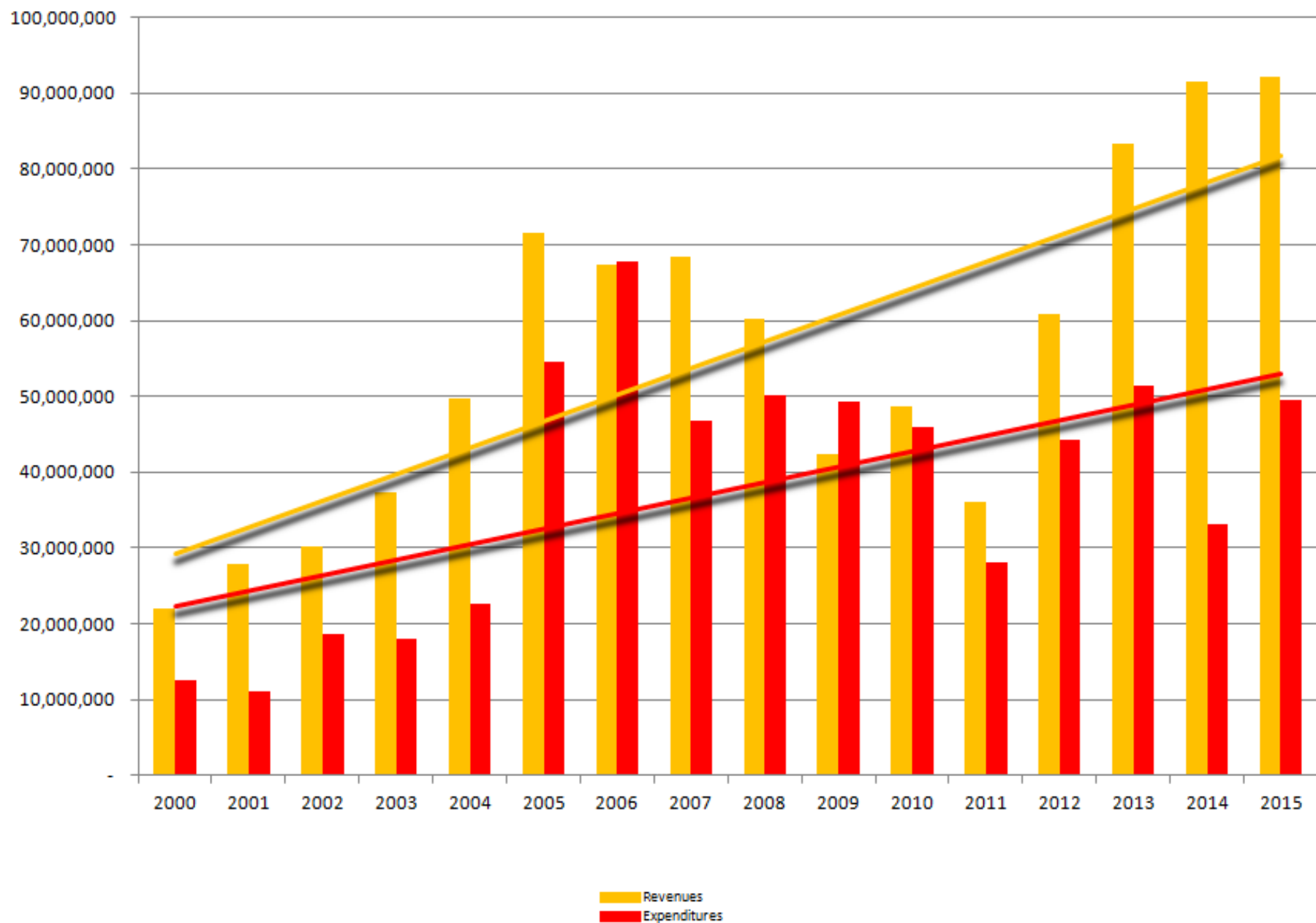
- In July 2015, Commission staff mailed the survey instrument to the local governments that are required to report cash proffer activity.
- Responses were due by September 30<sup>th</sup>.
- 100% response rate achieved (since the report's inception)



# 2015 Survey Results

- 8 Cities, 27 Counties, and 4 Towns (39 jurisdictions) reported cash proffers collected or expended in FY 2015.
- Collected: \$92.13 million
- Expended: \$49.51 million

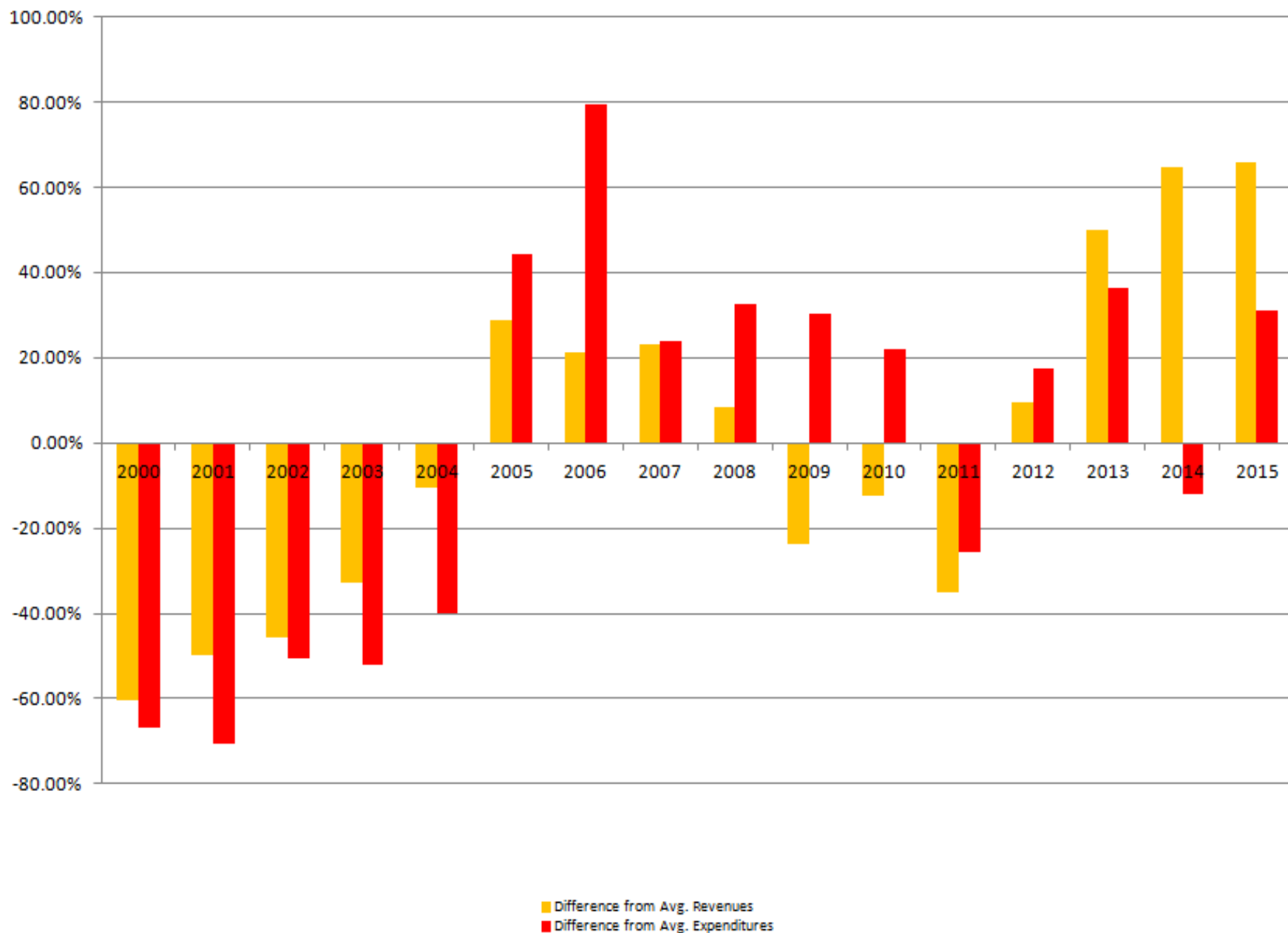
## Cash Proffer Revenues and Expenditures, FY2000-FY2015



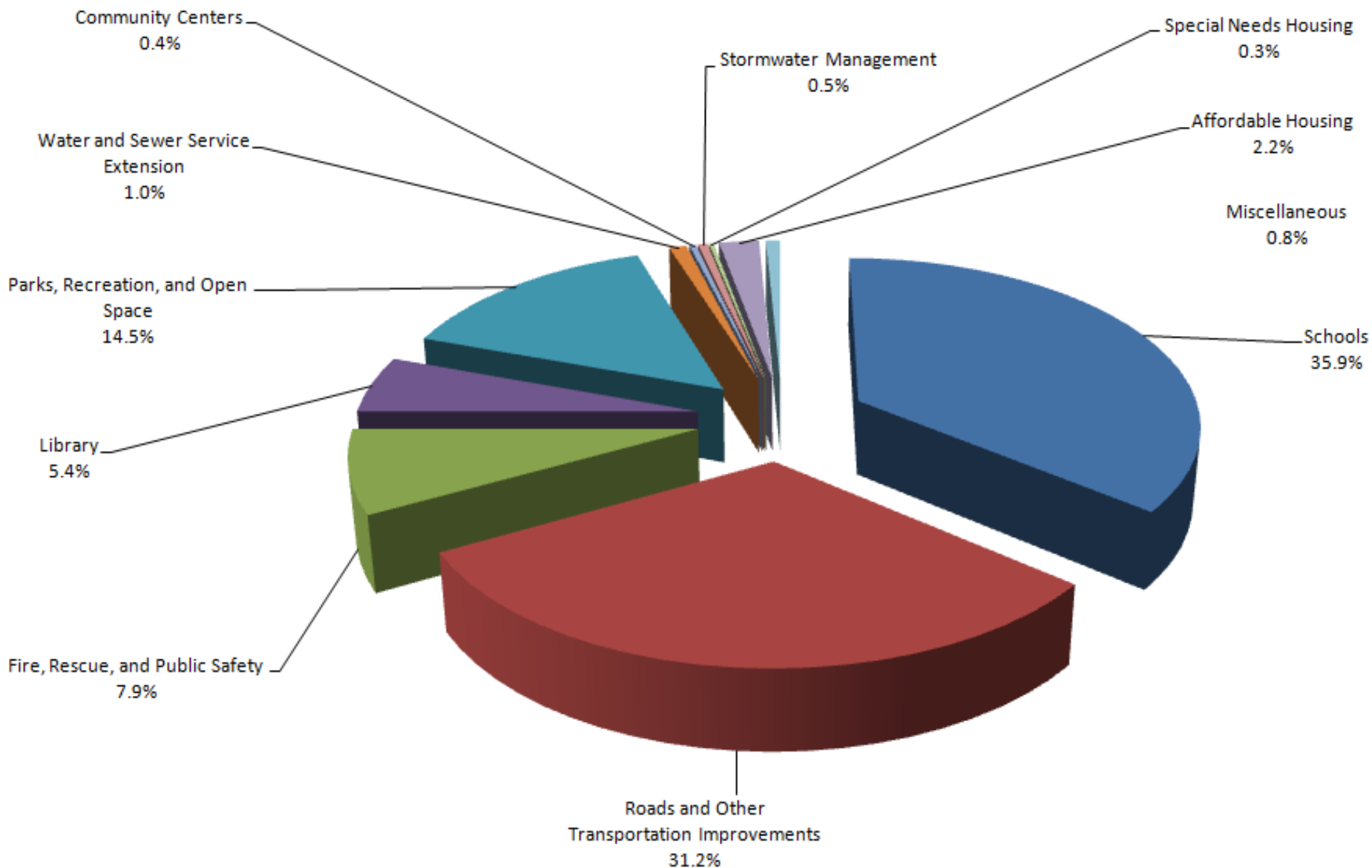


# Cash Proffer Revenues and Expenditures, FY2000-FY2015

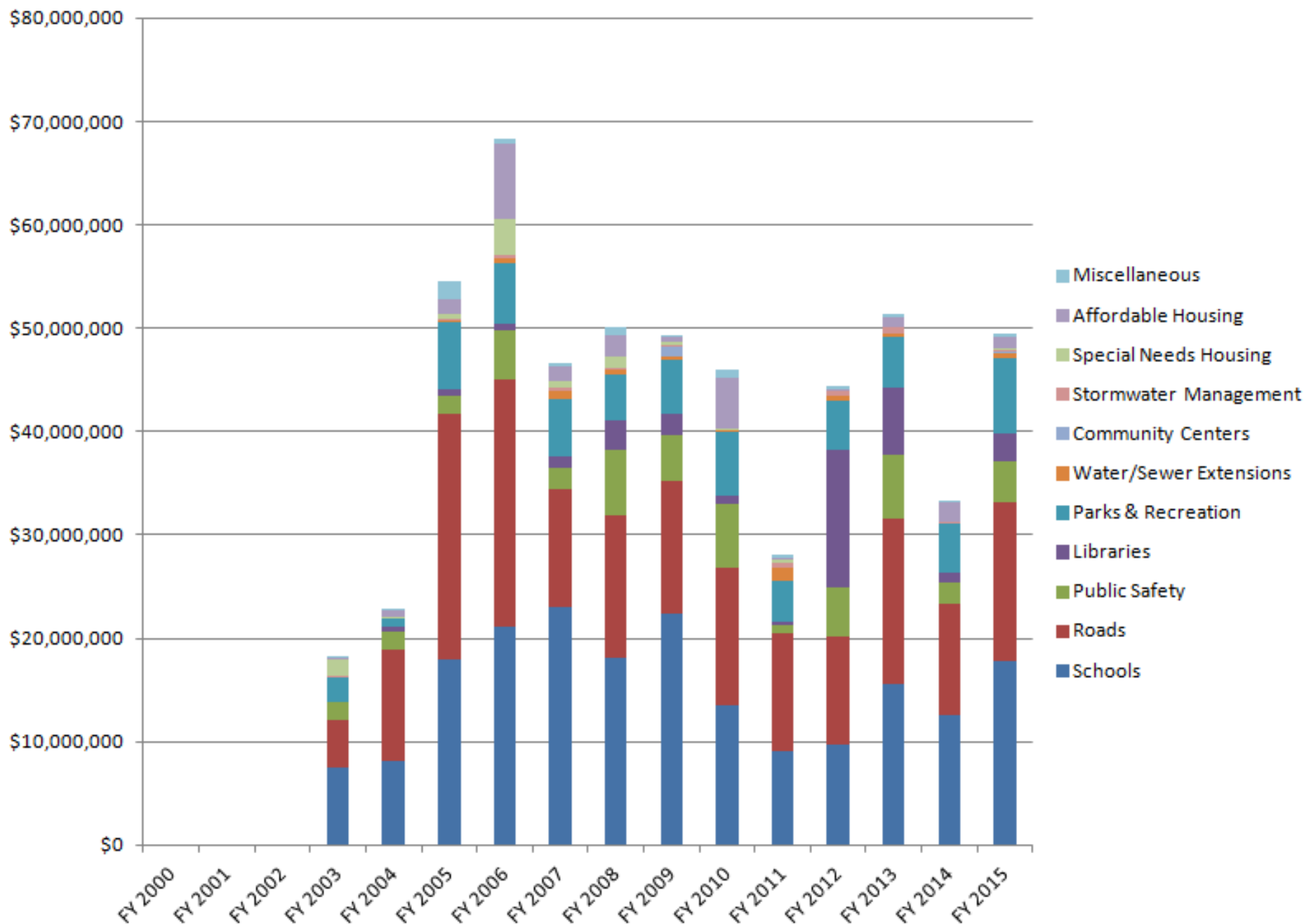
## Difference from Average



## Proffered Funds Expended by Category of Use, FY 2014-2015



# Cash Proffer Expenditures by Category, FYs 2003-2015





# Questions?

David Conmy

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